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How to Provide for Control of a Corporation by Heirs of Controlling Stockholder

Tax Problems Raised by Foreign Currency Devaluation and Blocked Foreign Income

Proposed Extension of the Securities Exchange Act of 1934

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How to Provide for Control of a Corporation by Heirs of Controlling Stockholder

BY JAMES J. MAHON, JR.

Many a controlling stockholder, having devoted most of his life and wealth to building up a successful corporate family business, is shocked by the realization that his heirs may not be able to retain control of his company; that in the absence of cash assets, his executors may be forced to sell shares of voting stock to "outsiders" to raise money for estate taxes. Thus control, and often the management, of the corporation falls into strange hands, and the natural intentions and desires of its owner are frustrated. And indeed the welfare of the corporation itself may suffer by reason of the displacement of efficient management groomed and trained by the present owner.

This condition has occurred with increasing frequency since 1940. High income tax rates have made difficult the accumulation of large estates consisting of property other than stock in closely-held corporations. And correspondingly high estate tax rates generally have necessitated the liquidation of at least a portion of such holdings to pay the tax.

Numerous plans have been evolved by estate planners to assure the retention of voting control of a family corporation for the heirs of its owner. However, present estate tax rates are so high, that at best any such plan can only postpone for a generation or two the ultimate dissipation of sizable family interests in close corporations.

Insurance on the life of the controlling stockholder is a frequently used method of providing cash for the payment of estate taxes. However, as a general rule, the policy must be sufficiently large to provide cash, not only for the payment of tax on the nonliquid portion of the estate, but also on the proceeds of the policy itself. Thus the premiums often are high. Moreover, the realization of the urgent need for action to protect his heirs only too often occurs to the controlling stockholder at an age when he is no longer insurable or when the premiums are prohibitive.

Gifts of stock to his heirs made during his lifetime is another method frequently used by controlling stockholders to assure the vesting of control of the corporation in the heirs. However, as contrasted with property passed on at

death, the basis of which is the fair market value at the time of death, the basis of *donated* stock in the hands of the donee is the *donor's* basis which may be substantially lower than the appreciated value of the stock. Such gifts are nevertheless subject to the gift tax on their fair market value at the date of the gift. The gift tax rates are roughly three-quarters of the estate tax rates. However, if such gifts should happen to be held to be in contemplation of death, the property is then subject to estate tax, a credit being allowed for gift tax previously paid. Further, it is now proposed by the Truman Administration that gifts be subjected to the higher estate tax rates. Therefore, the *inter vivos* gift method of perpetuating voting control, while very desirable in many cases, is subject to some risk that voting stock must ultimately be sold to raise cash for estate taxes.

Another method of attempting to assure the continuation of voting control in the heirs is by means of the so-called "bail-out" type of transaction. This calls for the immediate conversion of a portion of the existing voting stock equity into a newly created issue of nonvoting but otherwise readily marketable type of stock such as a cumulative preferred stock. The newly issued nonvoting stock is held by the controlling common stockholder for ultimate sale to the public by his executors after his death. Thus, cash is afforded for the payment of estate tax and the voting control of the company is retained through the continuing common stock ownership by the heirs.[1]

Unfortunately, some attempted "bail-outs" have resulted in staggering income tax liabilities to the common stockholders upon the receipt of the senior securities because of the failure of the transactions to qualify as nontaxable exchanges or distributions. In some such cases a capital gains tax was incurred on gain recognized and in others the new securities received were treated as an ordinary dividend and subjected to ordinary income tax rates.

To assure the nontaxability of the receipt of the new stock two important requisites should be observed: (1) the transaction must conform in type and substance with those consistently determined to be nontaxable by judicial authority; and (2) an advance ruling as to nontaxability should be obtained from the Commissioner of Internal Revenue before the transaction is consummated.

There are four general types of transactions by which "bail-outs" conceivably might be attempted: The first type (Corporate Split-Ups) is extremely hazardous taxwise; the second (Simple Nonreorganization Exchanges of Stock) is *not* hazardous taxwise, but it does not permit the issuance of a readily marketable type of new nonvoting

stock; the third (Recapitalizations) to qualify as nontaxable, requires the often difficult showing of corporate business purpose as distinguished from that of the shareholders; the fourth (Stock Dividends of Preferred on Common) is practically nonhazardous taxwise, and in addition, it permits the issuance of a readily marketable type of new nonvoting stock. A discussion follows of the income tax status and the other attributes of the four types of transactions.

Corporate Split-Ups

The corporate split-up is effected when an existing corporation transfers all its assets to two or more new corporations for their stock, which stock is distributed to the old company's shareholders in exchange for their stock, followed by dissolution of the old company. To qualify as a tax-free reorganization[2] resulting in nonrecognition of gain or loss on the exchange to both the stockholders and the old corporation, the transactions must be motivated by a corporate business purpose (as distinguished from a stockholder's purpose) such as the splitting of unrelated segments of a business into two continuing separate entities under the same ownership. For example, the transfer to two newly organized corporations of a soft drink business and a perfume business previously conducted by a single corporation because of the obvious conflict of marketing problems, would constitute a bona fide corporate business purpose. Therefore, such a split-up probably would qualify as a tax-free reorganization.[3] However, should such a transaction be designed and effected solely to siphon off funds tax-free to the stockholders, the corporate business purpose test would not be met and nontaxability could not be assured.

Attempts have been made to utilize the split-up type of transaction (and the related "spin-off"[4] and "split-off"[5]) to obtain funds in a bail-out type of transaction. The procedure is simply to transfer all the operating assets to one of the new corporations, cash or marketable securities being transferred to the other new corporation. Liquidation and dissolution of the latter, or the sale of its stock to outsiders is then effected within a short time with the hope that the stockholders will be liable for only a capital gains tax on the proceeds of liquidation (or sale).

Unfortunately for the stockholders, the Commissioner of Internal Revenue will not issue an advance ruling as to nontaxability in a split-up of this type, and if consummated, he most likely will challenge such a transaction in court for the reason that the noncorporate purpose is obvious, i.e., the obtaining of funds by the stockholders. He would view the funds received as dividends taxable at ordinary income tax rates.[6] Indeed,

even if the transaction were found to be a tax-free reorganization, the receipt of such cash funds as part of the transaction may not exempt them from being taxable as dividends.[7] Therefore, at best, for intended bail-out purposes, the corporate split-up or any variation thereof (e. g., the spin-off or split-off) is of limited applicability.

Simple Nonreorganization Exchanges of Stock

The Code[8] provides for the nontaxability of exchanges of common stock for common stock of the same corporation or preferred stock for preferred stock of the same corporation. A showing of corporate business purpose apparently is not required for such an exchange because it does not constitute a "reorganization." Accordingly, a new issue of nonvoting common stock can be created by a corporation and issued in exchange for a portion of the outstanding voting common stock without any particular likelihood of tax incidence on the exchange. The provision thus permits the controlling stockholder to convert part of his voting stock into nonvoting stock which presumably can be disposed of by his estate without affecting the continuance of voting control of the corporation in the hands of his heirs. However, the value of this type of exchange for bail-out purposes is limited in that nonvoting common stock would not be as readily marketable to the investment public as stock which is preferred as to both dividends and to assets in the event of liquidation. And the issuance of the latter type of stock (i. e., preferred stock) in exchange for common stock does not fall within this Code provision.

Recapitalizations

Because of the frequent revisions of capital structure that must be made by business corporations, Congress has seen fit to include "recapitalizations" in the definition of statutory "reorganizations."[9] Accordingly, exchanges of stock or securities in bona fide recapitalizations are tax-free.

A recapitalization has been defined as "a reshuffling of a capital structure within the framework of an existing corporation." Ordinarily, the reshuffling is necessitated for urgent business reasons, such as the elimination of onerous interest charges resulting from top-heavy debt structures, the appeasement of pressing creditors, or the elimination of deficit accounts. Recapitalizations frequently result from proceedings under the Bankruptcy Act or they may be simply quasi-reorganizations calling for the creation of a "dated surplus" account. In most instances, the recapitalization contemplates a "scaling-down" of the seniority of securities, e. g., preferred stock is issued in exchange for outstanding bonds or common stock is issued in

exchange for preferred stock. However, in some instances a "scaling-up" of the seniority of securities has been contemplated—for example, the issuance of bonds for preferred stock[10] or preferred stock for common stock.[11]

For many years it was assumed that a recapitalization did not require a corporate business purpose. Under this assumption, the recapitalization appeared to offer an excellent vehicle for a bail-out type of transaction because the controlling stockholder without reducing the extent of his voting control ostensibly could obtain, in exchange for part of his voting common stock, a type of security that could be more readily converted to cash. In fact, it was thought that the issuance of bonds for common stock would constitute a recapitalization regardless of purpose.

Unfortunately, taxpayers who proceeded under this assumption were in a "fool's paradise" because in such a case the Supreme Court held that bonds received in exchange for common stock in a purported recapitalization constituted ordinary income taxable at regular rates.[12] No corporate business purpose was found in that transaction and the Court held that its "net effect" was tantamount to the distribution of a dividend.

The Commissioner of Internal Revenue will issue advance rulings on the nontaxability of the issuance of preferred stock in exchange for common stock, provided he is satisfied of the bona fides of the purpose. However, in most instances, he has also required from the corporation and its stockholders certain assurances as to the disposition of the newly issued stock. These assurances are also required in connection with the proposed issuance of stock dividends of preferred on common—and therefore are discussed hereinafter under that heading.

The Commissioner would seem to have the authority to require a showing of corporate business purpose in the case of a proposed recapitalization exchange. Such a showing is not required in the case of a stock dividend of preferred on common which is next discussed. Therefore, as between the two, the latter would appear to be preferable.

Stock Dividends of Preferred on Common

The Supreme Court held in 1920[13] that a dividend paid in common stock on common stock, with no other class of stock outstanding, does not constitute income under the Sixteenth Amendment. Such was the law for almost a quarter of a century.

Dissatisfied with that decision, the Treasury again presented the question to the Court in 1943 and it again held[14] that a stock dividend of common on common is nontaxable under the present Code pro-

visions. The Court also held that a dividend in nonvoting common stock paid on both voting and nonvoting common, the only two classes of stock outstanding, does not constitute income;[15] and that a dividend paid in preferred stock on common stock with no other class of stock outstanding, is not income.[16]

In view of these Supreme Court decisions, a dividend payable in preferred stock on common stock appears to be the safest means of converting voting equity into a marketable form of nonvoting equity for the reason that a showing of corporate business purpose for the distribution of such a dividend is not essential as it is in some other types of transactions.

The Commissioner of Internal Revenue will issue advance rulings as to nontaxability of preferred stock dividends on common[17] if certain assurances are furnished by the corporation and the stockholders. The following are the assurances that are usually required:

(1) That there are no existing arrangements for the sale of the newly issued stock

(2) That there is no present intention on the part of any shareholder to sell any of the newly issued stock

(3) That there is no present intention on the part of the corporation to redeem any of the newly issued stock

(4) That the newly issued stock contains no sinking fund provisions.

As to the first two assurances, it would seem that they could easily be given by a living controlling stockholder who has no intention of disposing of the newly acquired preferred stock during his lifetime, even though he is almost certain that his executors will be forced to sell such stock after his death to pay estate taxes.

The latter two assurances would appear to be gratuitous for the reason that the subsequent redemption by the corporation of the newly issued preferred stock is to be avoided in any event because under the law such a redemption *may* constitute a dividend to the redeeming shareholder.[18] This is true, particularly if: (1) such shareholder is the original recipient of the stock dividend, and (2) the stock redeemed constitutes but a part of his stockholdings. Therefore, the latter two assurances simply should serve as a caution to the controlling stockholder that the safest method for his executors to convert the preferred stock into cash is to sell it to third-party outsiders, and not to the corporation.

The subsequent sale of the preferred stock by the estate of the controlling stockholder would be a capital gain type of transaction. The basis of such stock to the estate would be its fair market value at the date of the decedent's death (or a year later, if the optional valuation date were elected).

As to the status of a later redemption of the preferred stock in the hands of a third-party purchaser for

value who is not also a holder of common stock, it has been held that such a redemption does *not* constitute dividend income.[19] Therefore, it is not inconceivable that at some time subsequent to the death of the controlling stockholder, and the sale of his preferred stock to the public, the corporation could call such stock for redemption without likelihood that such redemption would give rise to dividend income. However, if the sale and the later redemption were proximate, either in time or the relationship of the parties, it is probable that the Treasury may attempt to tax the sale to the *estate* as an ordinary dividend.[20]

In planning the payment of a preferred stock dividend on common, the management of a closely-held corporation should consult investment counsel to determine the various attributes of a readily marketable type of preferred stock, e. g., dividend rates, etc., since such stock ultimately may be traded-in on the public market. A description of the proposed transaction may then be submitted to the Commissioner of Internal Revenue with a request for an advance ruling thereon. The request should include, *inter alia*, a description of the present issue of stock outstanding, a schedule of the stockholders and the number of shares held, and the balance sheet of the company. The Bureau in considering the proposed transaction may require certain amendments to the plan before ruling that it is nontaxable. If such amendments are acceptable to the company and its stockholders they may be made. If not, the plan should be abandoned because of the almost certainty of litigation if consummated.

FOOTNOTES

[1]The term "bail-out" was originally applied to transactions in which the newly acquired preferred stock was subsequently redeemed for cash rather than sold to outsiders. However, the term more recently has been extended by tax writers to include the latter.

[2]Code Section 112(g)(1)(D).

[3]The Commissioner will issue rulings approving the nontaxability of split-ups where corporate business purpose is shown and certain safeguards are furnished as to future disposition of new shares.

[4]"Spin-off" is the term applied where an existing corporation transfers *part* of its assets to a new corporation receiving therefor stock of the new company, which stock is distributed to the existing corporation's stockholders. The receipt of the new stock in such a transaction was held a fully taxable dividend to the stockholders because there was no "exchange" of stock by them as required by Code Section 112(b)(3). (*Samuel v. Slover*, 6 T.C. 884). For the same technical reason the Commissioner will not issue rulings as to nontaxability even though corporate business purpose is proven. The Magill Report recommended that the statute be amended to provide for nontaxability if: (1) continued existence of both corporations is assured, and (2) the transaction is not a device for the distribution of profits.

[5]"Split-off" is the term applied where an existing corporation transfers part of its assets to a new corporation, receiving therefor stock of the new company which stock is distributed to the existing corporation's stockholders in exchange for a prorata portion of their stock. The receipt of the new stock in such a transaction was held nontaxable to the stockholders because an "exchange" required by Code Section 112(b)(3) was technically present. (*W. N. Fry*, 5 T.C. 1058; *H. A. Menefee*, 46 B.T.A. 865.) However, the Commissioner will not issue rulings as to nontaxability even though corporate business purpose is proven because he regards the transaction as being but a technical step removed from a "spin-off."

[6]Code Section 115(g) provides that any redemption of stock which is essentially equivalent to the distribution of a taxable dividend shall be regarded as such.

[7]Code Section 112(c)(2) provides for the taxability of any distribution of "boot" in a reorganization which "has the effect of the distribution of a taxable dividend." In *Lewis et al. Trustees v. Com'r*, C.A.-1 (8-9-49) the Court held "boot" (cash) to be taxable as an ordinary dividend in a transaction that the taxpayer alleged was a taxable liquidation because it was motivated by a shareholders' purpose and not a corporate purpose, but which the Commissioner successfully contended was a reorganization. The Court's conclusion was based upon the relatively new view that shareholders' purpose and corporate purpose are indistinguishable.

[8]Code Section 112(b)(2).

[9]Code Section 112(g)(1)(E).

[10]*Wesley Terhune*, 40 B.T.A. 750; *Clarence J. Schoo*, 47 B.T.A. 459; and *Mary N. Crofoot*, 4 T.C.M. 97. In the *Schoo* case 88.88 per cent of the preferred stock had been held by the owners of 71.54 per cent of the common stock; the Commissioner alleged the violation of the *LeTulle v. Schofield* principle (308 U. S. 415) in that a creditor interest was substituted for proprietary interest; the Board held that that principle applies to mergers and consolidations but not to recapitalizations. In the *Crofoot* case the preferred stock had been held in exactly the same proportions by the same people who held the common stock; the Commissioner alleged that the receipt of the bonds in redemption of the preferred stock constituted a dividend under Code Section 115(g) but the Court found a legitimate business purpose.

[11]*Muchnic*, 29 B.T.A. 163(A).

[12]*Bazley v. Com.*, 331 U.S. 737.

[13]*Eisner v. Macomber*, 252 U.S. 189.

[14]*Helvering v. Griffiths*, 318 U.S. 371.

[15]*Helvering v. Sprouse*, 318 U.S. 604.

[16]*Strassburger v. Com'r*, 318 U.S. 604.

[17]The existence of an outstanding prior issue of preferred stock will not preclude a ruling as to nontaxability of a dividend in new preferred stock if: (1) the new preferred stock is junior in every respect to the old, and (2) the proportionate interest of the common shareholders in the corporation is not changed by the stock dividend.

[18]Code Section 115(g).

[19]*Parker v. U.S.*, 88 F. (2d) 907.

[20]That such may be the Treasury's intention is indicated by the following reservation that usually appears in rulings as to nontaxability of stock dividends of preferred on common:

> " . . . Opinion is reserved as to the treatment, for Federal income tax purposes, of any sale or transfer (other than by bona fide hypothecation) by a shareholder of all, or any part, of the new preferred stock issued by the company, or of a redemption of such stock either in the hands of the original holder, or a purchaser or a transferee of the stock."

Tax Problems Raised by Foreign Currency Devaluation and Blocked Foreign Income

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The devaluation of foreign currencies during 1949 raised many tax problems, some of which have been compounded by the release on March 1, 1950, by the Commissioner of Internal Revenue, of Collectors' Mimeograph 6475, I.R.B. 1950—6, 8, dealing with blocked foreign income. The underlying tax principle applicable to devaluation problems is that foreign currency or foreign exchange is comparable to a commodity. Although this underlying principle is well established, its application under varying conditions not only is not clearly established but also must be determined by precedents and authorities which by tax standards are old. It is the purpose of this review to point out some of the tax problems arising from devaluation and exchange restrictions and to indicate possibilities thereunder.

PURCHASES ABROAD

The Board of Tax Appeals in *The Joyce Koebel Co.*, 6 B.T.A. 403 (1927) held that the cost of merchandise purchased abroad with foreign exchange is determined by the rate of exchange prevailing at the time of the purchase of the merchandise. (See also *Bernuth Lembcke Co. Inc.*, 1 B.T.A. 1051 and O.D. 590, Dec. 1920 C.B. 75.) The Board specifically said that where the exchange is acquired before or after the purchase of the merchandise at a different rate, the acquisition and disposition of the exchange is a separate transaction with gain or loss thereon but the Board did not indicate whether the gain or loss is capital or ordinary. This would depend on the circumstances in each transaction. The Bureau of Internal Revenue has relatively recently ruled that gains on transactions in foreign exchange effected by a United States citizen traveling in Mexico were capital gains where the transactions had no connection with a business activity.[1] Under what circumstances foreign exchange would constitute other than a capital asset is not clear. Certainly the foreign exchange of a dealer therein would not be a capital asset.

The Joyce Koebel Co. decision runs counter to one old ruling in which the Bureau stated that the cost of "goods" purchased abroad is determined by the rate of ex-

[1] I.T. 3810, 1946—2 C.B. 55.

change at the time the purchases are paid for even though that rate may be different from the rate prevailing at the time of purchase of the goods.[2] The ruling does not define "goods." On October 26, 1949, the *Wall Street Journal* reported that the Bureau of Internal Revenue had recently advised a taxpayer informally that it would follow this ruling on a purchase of fixed assets.

BUSINESS ABROAD

Where a corporation is engaged in business abroad and during the year the dollar value of the foreign currency has declined, the net income of the foreign operation is properly determined as the difference between the net worth at the beginning and end of the year, the current assets and liabilities being translated into dollars at the rate of exchange prevailing at the beginning and end of the year, and the fixed assets and liabilities being translated at cost or original dollar amount, adjustment being made for transfers of funds where appropriate.

In *Vietor and Achelis v. Salt's Textile Mfg. Co.*, 26 F. (2d) 249, the taxpayer was permitted to deduct a loss computed on the above basis, though the foreign operation produced a net profit in terms of the foreign currency. Current assets were held to include cash, accounts receivable, inventories and investments. Presumably, the same principles should be applied whether the corporation did part or all of its business abroad.

The Bureau of Internal Revenue has reached similar results in two rulings.[3] However, in another ruling which has never been withdrawn, the Bureau stated that the taxable net profits of a corporation's foreign branch should be computed in foreign currency and the result converted to dollars at the rate of exchange in effect at the end of the year, after elimination from such profits of sums remitted to the United States during the year. The remittances should be converted to dollars at the rate of exchange at the time of the remittances and should be added back to the dollar profits.[4]

In *Vietor and Achelis* the exchange rate went down during the year. If it had gone up, it would seem that the valuation of net current assets at cost or market, whichever is lower, would have been proper and would have prevented the recognition of an exchange gain. But if a taxpayer's foreign current liabilities exceed its foreign current assets, conservative business practice would justify the taking of an exchange loss when the exchange rate goes up during the year and the nonrecognition of an exchange gain when the exchange rate goes

[2]O.D. 489, 1920—1 C.B. 60.

[3]O.D. 489, 1920—1 C.B. 60; A.R.R. 15, 1920—1 C.B. 60.

[4]O.D. 550, 1920—1 C.B. 61.

down. Montgomery's *Federal Taxes on Corporations and Partnerships, 1949-50,* Vol. I, p. 27.

INVESTMENTS ABROAD

Both judicial decisions and Bureau rulings have taken the position that, unless a taxpayer is of a class entitled to inventory foreign exchange, no gain or loss is realized from a fluctuation in the value of holdings of exchange in the absence of disposition or complete worthlessness. A similar rule has been applied to other foreign investments, such as securities, mortgages, bank deposits and accounts receivable from foreign subsidiaries or other foreign debtors.[5] Since there has been no delimitation of the *Vietor and Achelis* principle of inventorying net current assets employed in business abroad, it will frequently be difficult to decide whether a case falls within that principle or within the principle that no gain or loss is realized through fluctuation in value of foreign investments due to changes in the exchange rate.

DEBTS PAYABLE IN FOREIGN CURRENCY

In *B. F. Goodrich Co.*, 1 T.C. 1098(A), the taxpayer, a domestic corporation, in 1933 borrowed 11,000,000 francs at a cost of $651,132.73 from a Paris bank and loaned the francs to its French subsidiary. In 1936, the taxpayer repaid the loan to the Paris bank with 11,000,000 francs which had been purchased at a cost of only $514,162.50. The loan to the taxpayer's subsidiary was still outstanding at that time. The Tax Court held that the taxpayer realized no gain on the repayment of the Paris bank's loan but intimated that gain or loss might ultimately be realized on the closing out of the loan to the subsidiary which might have a basis of $514,162.50.

What appears to be a similar result was reached in *William H. Coverdale*, 4 T.C.M. 713. There an individual taxpayer in 1930 and later had borrowed Canadian dollars from a Canadian bank and converted them at par into United States dollars which he used to buy stock in a United States corporation. In 1940 the taxpayer repaid the Canadian bank with Canadian dollars which had been purchased at less than par. Portions of the stock had been sold at a loss in 1930, 1931 and 1934 and in 1940 the remainder was sold at a loss greater than the discount on the Canadian dollars purchased to repay the loan. The Tax Court again held that no gain was realized on the repayment of the bank loan.

Both of these cases can be said to support a proposition that no gain

[5] *Vietor and Achelis, supra,* which involved several issues; I.T. 2404, 1928—1 C.B. 84; *Louis Roessel & Co., Ltd.*, 2 B.T.A. 1141(A); G.C.M. 4954, 1928—2 C.B. 293; O.D. 940, 1921—1 C.B. 64; O.D. 764, 1921—1 C.B. 155; A.R.R. 3131, 1923—2 C.B. 32.

is realized when a debt payable in foreign currency is repaid with foreign exchange acquired at a lower rate of exchange than that prevailing when the debt was incurred. (But cf. *James A. Wheatly*, 8 B.T.A. 1246 (N.A.)). The keystone of the reasoning of these cases is that, since foreign exchange is comparable to a commodity, no gain or loss can be realized from a mere borrowing and return of property. It must be conceded that it is difficult to distinguish such situations from short sales of foreign currency which result in gain or loss when covered. As for the *Goodrich* case, a distinction might be that the foreign currency borrowed had not been finally disposed of in a taxable transaction but had been merely loaned. In the *Coverdale* case the foreign currency borrowed had been disposed of by exchanging it in payment for stock but an over-all loss had been sustained on the sale of the stock. (See *Bowers v. Kerbaugh-Empire Co.*, 271 U. S. 170.) The *Coverdale* case may be distinguished from the *Joyce Koebel Co.* case on the ground that the principle that no gain is realized from a borrowing and repayment of foreign currency does not apply to debts incurred in connection with the purchase of merchandise. However, if the principle is correct, then it would appear that it should apply equally to foreign currency debts incurred in connection with the purchase of merchandise.

Foreign Tax Credit Under Sec. 131, Internal Revenue Code

Where the principle established in *Vietor and Achelis* is applied with a resultant over-all dollar loss from foreign operations, foreign income taxes paid by a corporation upon income measured in foreign currency are not allowable as a credit but only as a deduction,[6] and may be deducted only if no foreign taxes are claimed as credits. This is because the formula in Sec. 131(b)(1), I.R.C. in substance limits the amount of credit available for a particular foreign income tax to the ratio of the taxable net income from the country imposing the tax to the total net income from all sources.

Where a credit is available for foreign taxes paid during the year, the taxes are converted at the rate of exchange at the time of payment. However, if foreign taxes are accrued but not paid during the year, then the amount of the credit is determined by using the rate of exchange at the end of the year.[7] When such accrued foreign tax is actually paid, the rate of exchange at the time of the payment must be used to adjust the amount of allowable credit in accordance with Sec. 131(c).[8] Furthermore, a corporation's foreign tax credit under Sec.

[6]G.C.M. 4969, 1928—2 C.B. 269.

[7]I.T. 1645, 1923—1 C.B. 141.

[8]S.M. 4081, 1925—2 C.B. 201; *Texas Co. (Caribbean)*, 12 T.C. 925(A).

131(f) for taxes paid by its foreign subsidiary, which, subject to various limitations, is allowable for a taxable year in which dividends are received from the foreign subsidiary, is computed at the same rate of exchange as determines the taxable income from the dividends. This is the method prescribed by Form 1118 which must be filed to support the claim for credit. On the other hand, *Bon Ami Co.*, 39 B.T.A. 824, states that the foreign taxes should be converted at the rate prevailing at the date of the declaration of the dividend. Dividends constitute taxable income when they become available, which may or may not be the declaration date. However, it seems reasonable to assume from the Board's opinion that it intended the same rate to control the determination of the credit as controls the determination of the dividend income.

Blocked Foreign Income

Certain decisions have held that income in foreign currency blocked by exchange restrictions was not gross income for purposes of federal income tax.[9] The theory of these decisions was that taxable income must be measurable in dollars and hence, if conversion to dollars was impossible, there was no unrestricted use and enjoyment and no taxable income. Presumably, the Bureau agreed that completely blocked foreign income was not taxable.[10] However, even under this theory each case turned on its own facts as to whether the extent of the blockage was sufficient to prevent the realization of income. Taxpayers who failed to prove that it was impossible to obtain authority to convert blocked foreign currency into dollars were taxed upon such income.[11] Furthermore, other cases contained dicta that blocked foreign income might constitute taxable income on an economic benefit theory if it could be spent abroad even though it could not be converted into dollars.[12] There has been some indication that the Bureau was following these dicta.

Under these authorities, the question whether foreign income constituted taxable income was one which was frequently difficult to answer where exchange restrictions existed. While in many cases the income was clearly either taxable or nontaxable, many others fell in the penumbra of uncertainty resulting from the ambiguous decisions and dicta of the courts. In the light of that situation, President Truman in his tax message to Congress on last January 23, recom-

[9]*International Mortgage & Investment Corp.*, 36 B.T.A. 187(A); *United Artists Corp. of Japan*, 3 T.C.M. 574.

[10]Mim. 5297, 1942—1 C.B. 84; Reg. 111, Secs. 29.43-1 and 29.131-6.

[11]*Weil, Inc., v. Com'r*, 150 F (2d) 950; *Credit and Investment Corp.*, 47 B.T.A. 673.

[12]*Phanor J. Eder v. Com'r*, 47 B.T.A. 235, remanded 138 F(2d) 27; *Max Freudmann*, 10 T.C. 775(A).

mended changes in the tax laws concerning foreign income. He specifically advised:

> ". . . steps . . . to postpone the tax on corporate income earned abroad until it is brought home, . . ."

Stating that many inquiries had been received concerning the proper federal income tax treatment of income arising in countries with exchange restrictions and that such restrictions often made it difficult to determine the dollar value of such foreign income, the Commissioner on March 1, 1950, released Mim. 6475. Under this ruling, any taxpayer, corporate or other, realizing income (designated by the ruling as "deferable income") in a foreign currency which is not "readily convertible" into dollars or into other money or property readily convertible into dollars, "may elect" to use a new "method of accounting" under which the taxation of such deferable income is deferred until such time as it ceases to be deferable, at which time it is presumably converted at the then rate of exchange. Deferable income ceases to be deferable when:

1. The foreign income becomes readily convertible into dollars or into other money or property which is readily convertible into dollars. This probably refers to a repeal of the exchange restrictions.
2. The foreign income is actually converted into dollars or other money or property readily convertible into dollars, notwithstanding the exchange restrictions. Reference here is probably to a conversion of the foreign currency pursuant to permission of the exchange authorities.
3. The foreign income is used for non-deductible personal expenses or is disposed of by gift, bequest, devise, inheritance, dividend or other distribution.
4. In the case of a resident alien taxpayer, the taxpayer terminates his United States residence.

The ruling requires that the deduction of expenses "paid or accrued" or "paid or incurred" in the same currency as the deferable income, and of other items measured in such currency, as well as the foreign tax credit, shall be deferred. Such deductions and the foreign tax credit shall be allowed as the deferable income ceases to be deferable. Costs and direct expenses in U. S. dollars to the extent involved in the production of deferable income must also be deferred and deducted in the manner provided in the ruling when the deferable income ceases to be deferable or becomes worthless.[13]

The election given by the ruling is made by filing with the regular tax return a report of the deferable income on a separate form of the same type as the regular return. A separate report is required for each country. The ruling is retroactive

[13]See Mim. 6494, released Mar. 27, 1950, I.R.B. 1950—8, 10, amending par. 7(b) of Mim. 6475 dealing with the allocation of costs and direct expenses in U. S. dollars relating to foreign operations in more than one country.

to all open years. When the election is exercised for a current year the taxpayer must designate the first open year to which the election applies. If the taxpayer elects a year prior to the current year, then separate reports of deferable income must be filed for such year and all intervening years at the time that the return is filed for the current year of election. Though the ruling does not so state, this report probably should show deferable income and deductions in terms of the foreign currency with certain possible exceptions. Where deferable income has been taxed in prior open years, refund claims should also be filed at the time the election is exercised for those years. A taxpayer who has elected to use this new method of accounting cannot change without the consent of the Commissioner.

The objective of this ruling is not clear from its context. It may be that the Commissioner by what might be classified as administrative legislation is attempting to implement for all taxpayers the suggestion quoted above from President Truman's latest tax message. Today very few, if any, foreign countries are without exchange restrictions or controls of some degree. Hence, such an objective will be indicated if the Bureau rules that income from countries with liberal exchange restrictions, such as Canada, is not readily convertible into dollars and may be deferred. Under such a broad interpretation of "readily convertible" the taxation of foreign income could be deferred even though under the decisions existing before the ruling the same foreign income might have been taxable since it was not sufficiently blocked. This would be more logical than a narrow interpretation of "readily convertible" restricting the operation of the ruling to blocked foreign income which under the decisions before the ruling would not have been taxable. While the Commissioner through the medium of permissive accounting methods may be able to defer the taxability of otherwise taxable income, he could not make taxable otherwise nontaxable income.

It would seem wise for a taxpayer to consider carefully the advisability of the election. The ruling requires that on a return of deferable income the taxpayer must declare that such deferable income will be included in taxable income when it ceases to be deferable. In the case of an individual taxpayer, the taxation in one year of deferable income of several years would subject the income to high surtax rates with a resultant tax disadvantage. Furthermore, under the ruling such income would cease to be deferable on the taxpayer's death. If the blocked foreign income were such that it would not have been taxable prior to the ruling and if at the taxpayer's death it is still so blocked, the

taxpayer's election could impose an onerous burden by making taxable in the taxpayer's last return blocked income which could not supply the funds to pay the tax.

Since the ruling, which wasn't released until March 1, 1950, states in paragraph 9 thereof that it "will be applicable to all open taxable years," it would seem that the Bureau intends to interpret it liberally, allowing the election to be made so long as a year is still open and not necessarily at the time the original return for that year is filed. This would eliminate the necessity of having made a decision for the year 1949 prior to March 15 or any extended date for filing the 1949 return.

While the ruling may have been intended as a relief measure, it has raised a plethora of new questions, some simple, some complex, which must be answered before taxpayers can act intelligently under the ruling. For instance, what countries have exchange restrictions which bring their currency within the ambit of the ruling? The publication by the Bureau of a list of such countries would be helpful but might be impractical because many countries' restrictions vary with the nature of the transaction. The ruling states that "losses shall be taken into account under the rules for deferment stated" therein. How does a loss cease to be deferable? It would seem that the door is opened to carrying forward deferable foreign losses for an indefinite number of future years until exhausted against future foreign profits. In this connection, the method of identifying the source of conversions into dollars where the taxpayer has substantial assets abroad has not been indicated. Furthermore, there is no definition in the ruling of what constitutes deferable direct dollar expenses. An equitable definition of direct expenses would limit them to such items as shipping costs, excluding any part of general and administrative dollar expenses.

What of an accrual basis taxpayer selling abroad for dollar prices rather than in a foreign currency? Does the ruling apply if such a taxpayer's solvent foreign customers are unable readily to obtain dollars to pay their bills? Another unanswered question particularly important for 1949 is the interrelation of the ruling and the *Vietor and Achelis* principle. Does an election under the ruling for a year prior to 1949 prevent the taking of a *Vietor and Achelis* loss due to the 1949 devaluation even if there is no foreign operating profit or loss for 1949? Or would it be possible for a taxpayer, exercising the election, still to take a *Vietor and Achelis* loss computed by excluding from net current assets at the end of the year the portion thereof attributable to the foreign income of the year? The former

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Proposed Extension of the Securities Exchange Act of 1934 to Certain Unregistered Corporations

BY LOUIS H. RAPPAPORT

The provisions of the Securities Exchange Act of 1934 would be extended to more than a thousand corporations not now affected by the Act if a proposal of the SEC is enacted into law.

The Commission's proposal has been embodied in a bill introduced in the Senate by Senator J. Allen Frear, and endorsed recently by President Truman. It would have the effect of extending certain provisions of the 1934 Act to corporations having more than $3,000,000 of assets and more than 300 stockholders.

Proposal Based on Surveys: In 1946 the SEC made a similar proposal, based on a study it had made which, in the Commission's opinion, pointed to the need for legislation to protect investors in certain unregistered securities. The 1946 study included, among other things, a survey of the accounting practices of a number of corporations not subject to SEC requirements, with a view to determining whether investors in these companies were furnished information which the Commission considers important and which would be made publicly available if these companies were compelled to comply with the reporting and other requirements of the SEC. The current proposal also is based in part on an examination of the financial reporting and other practices of a number of corporations that do not presently file financial statements with the Commission.

Statement Survey Based on SEC Standards: The principal accounting requirements of the SEC are embodied in its Regulation S-X. For the purpose of evaluating the accounting practices of corporations not subject to its jurisdiction, the Commission used that regulation as a sort of touchstone.

After the 1946 study was published, it was suggested that a fairer basis for evaluating the reporting practices of unlisted companies would be to compare their reports with those sent by listed corporations to their stockholders. The SEC rejected this basis then and has rejected it again principally for the reason that, in adopting Regulation S-X, the Commission has set its minimum standard for financial statements for investors. The financial statements in stockholders' reports of listed companies are not subject to SEC jurisdiction, and these statements, with very few exceptions, do not comply with all the requirements of Regulation

S-X. As to such companies, however, the investor or analyst may consult the files of the Commission or obtain photocopies of information required to be furnished by such companies.

Some might be inclined to question the Commission's approach in the present survey since by implication it seems to be critical of the practice of listed corporations in reporting to their stockholders. That implication was probably not intended. In using Regulation S-X as a measuring stick, the SEC probably meant to say merely: "In their reports to stockholders these unlisted corporations (which do not file statements with us) omitted certain information which our requirements would have elicited."

Scope of Survey: The staff of the Commission in 1946 examined the financial reporting practices of 119 companies which did not file their statements with the SEC. On the basis of the standards established by the Commission, it contended that most of those companies issued financial reports which were in some degree "misleading or inadequate." The new study was undertaken in 1949 and covered 61 of the 119 companies examined in 1946 and in addition 98 new companies, making a total of 159, each of which had assets of more than $3,000,000 and more than 300 security holders. The Commission states "we believe these companies to be a representative sample of such corporations as would fall within the scope of the proposed legislation."

Omission of Prime Financial Statements: Of the 159 companies studied it was found that 19 of them did not publish one or more of the three prime statements which are essential to any analysis of the condition of a business, viz., the balance sheet, statement of income and statement of surplus.

The Balance Sheet: The Commission found 89 balance sheets, judged by its standards, to be deficient. The deficiencies related primarily to disclosures with respect to fixed assets, inventories, reserves and capital stock but there were also such omissions as the failure to report dividend restrictions where such restrictions were known to exist and the failure to segregate receivables into amounts due from officers and employees and amounts due from customers. The Commission was critical of companies which show their fixed assets in a lump sum without indication of whether they were land, buildings, machinery, equipment or some other type. (This break-down is not required by Regulation S-X in balance sheets filed with the SEC, but it is required in a supporting schedule of fixed assets.) In several balance sheets the amount of the depreciation reserve was not indicated. Also, the Commission states, "frequently there

was no mention of the basis upon which the company carried its assets."

In many of the balance sheets studied inventories were shown as a single figure, and some did not indicate the basis upon which inventories were valued. In many of the reports which showed marketable securities (other than U. S. Government securities), disclosure was not made of market value.

Some companies did not classify surplus as to its source, i. e., earned, capital, revaluation or paid-in.

In those statements that showed reserves other than for depreciation, it was impossible to ascertain in one-half of them the purpose for which the reserves had been established.

A number of the reports did not show the number or classes of capital stock outstanding, or combined the capital stock liability with the surplus account. In a small number of cases the SEC found treasury stock to be improperly shown as an asset; in one report dividends on treasury stock were shown as income to the company.

The Income Statement: Income statements were not furnished by a few of the companies studied, but a large number furnished statements which the SEC said were deficient in material respects. Many companies failed to disclose sales or cost of sales; some of them furnished neither item.

The Commission took exception to those cases which did not show the amount of income before deducting income taxes, and also to those using the "single-step" income statement instead of the conventional form of income statement.

Explanatory Material: The Commission says that financial statements are rarely understandable without explanations, which usually appear in footnotes. As an example of such notes the Commission cites those which deal with the accounting policies followed by a company with respect to disclosure of restrictions on surplus, the basis for determining the depreciation provisions and valuation of inventories. Such explanatory material was absent from the great majority of the statements examined.

Auditors' Reports: In five reports the Commission found the auditors' reports deficient. In two of them the certifying accountant stated that no verification had been made of the inventory amounts and that accounts receivable had not been confirmed; in three cases the accountant said physical tests of inventories had not been made. In each of these reports the certificates stated that the examinations conformed to generally accepted auditing standards.

Nonfinancial Comments: The present proposal to extend the pro-

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The Nell Montgomery Garden House

(*Fairchild Tropical Garden*)

Colonel Montgomery's continuing interest in the Fairchild Tropical Garden, near Coconut Grove, Florida, had concrete expression in his presentation of the Nell Montgomery Garden House, which was dedicated in impressive ceremonies on January 30, 1950. On the preceding day, an open house was held in the Garden House for members and friends, and Mr. Lybrand presented to the Garden a collection of paintings by Edward Clarence Dean, which will hang in the Garden House. An editorial in *The Miami Herald* of January 28, 1950, entitled "To Generosity," is an impressive tribute to Colonel Montgomery's sponsorship of this important factor in the life of South Florida:

TO GENEROSITY

South of Coconut Grove is the world-famous Fairchild Tropical Garden. It is the only great tropical botanical establishment in continental United States.

Fairchild Tropical Garden is not another garden that grew somewhat like Topsy. There was a great idea behind its inception. There was a happy choice of location. There was massive detail work. Determined and constant personal struggles went into the evolution of this unique testimonial to the science and the beauty of horticulture.

The Tropical Garden is a monument to the scientific knowledge and world-wide research of Dr. David Fairchild for whom it is named.

Into the making of it also went the informed knowing and devoted activity of interested community workers.

The Garden stands, however, particularly as a monument to the great and continuing generosity of Col. Robert H. Montgomery, its founder.

Col. Montgomery's interest in Fairchild Tropical Garden has found new expression in the Nell Montgomery Garden House which will be formally presented to the institution's directors Monday.

The beautiful $100,000 building is named after the Colonel's wife, whose personal interest in the garden has kept pace with that of her husband.

It is fitting that the dedication of the new garden house should be signalized by an address by Dr. Charles F. Kettering, internationally known scientist of General Motors. Dr. Kettering brings to the occasion a scientific knowledge that is not confined by the scope of mechanics. He is a recognized authority on plant life, particularly on the method used by plants to make their own food from air, water and sunlight.

Kettering will be introduced by Dr. Fairchild to the 1,000 persons who have been asked to attend the dedication.

The Barbour Medal will be awarded during the ceremonies to William Lyman Phillips, Miami landscape artist, and to Dr. Walter T. Swingle, noted scientist of the U. S. Department of Agriculture.

The Barbour Medal is awarded by the Garden in honor of Dr. Thomas Barbour, who until his death three years ago, was director of the Museum of Comparative Zoology at Harvard University.

Fairchild Tropical Garden is a unique institution. Metropolitan Miami is justifiably proud of it. It is an outstanding showplace.

Lucita H. Wait, an editor of The Fairchild Garden Bulletin, wrote in her book on the Garden's first ten years that it shows that the strength of such an institution depends

not on one or two individuals, or on a happy choice of location.

She urged that it takes an aroused, an enthusiastic community of men and women working and hoping together to make any such organization live and grow.

Which is all quite true. But the aroused and enthusiastic community workers who have made Fairchild Tropical Garden "live and grow" will be quick to tell you that it would not be the beautiful reality that it is without Col. Montgomery.

Unostentatiously, without seeking public acclaim, with a very real sense of modesty, Col. Montgomery has given to this community a thing of beauty, of a rarity that has captured the marveling attention of the scientific world. It is a never-ending delight to plain people who love flowers, plants and trees as one of nature's loveliest and most valuable manifestations.

The Herald extends to Col. and Mrs. Montgomery on the occasion of the dedication of the new garden house, the appreciation of this community for what they have achieved and for the inspiring example they have given in their support of a community project.

Tax Problems Raised by Foreign Currency Devaluation and Blocked Foreign Income

(*Continued from page 16*)

seems the more probable Bureau view because of the requirement in the ruling that losses should also be treated under the rules for deferment. Still another open question is whether the ruling applies to the recovery of war losses under Sec. 127(c) of the Internal Revenue Code. It is hoped that the Bureau will soon start issuing rulings to answer these various questions as well as the many others which will probably arise to plague taxpayers.

Proposed Extension of the Securities Exchange Act of 1934 to Certain Unregistered Corporations

(*Continued from page 19*)

visions of the 1934 Act to certain unlisted companies is based not only on the Commission's survey of the financial reporting practices of a number of such companies, but also on other grounds. The Commission is critical of the proxy soliciting practices of some unlisted companies. The Commission also believes that the provisions of the 1934 Act designed to protect investors against trading by corporate insiders should be extended to this group of large unlisted companies.

The L. R. B. & M. Journal

Published by Lybrand, Ross Bros. & Montgomery, for distribution to members and employees of the firm.

The purpose of this journal is to communicate to every member of the staff and office plans and accomplishments of the firm; to provide a medium for the exchange of suggestions and ideas for improvements; to encourage and maintain a proper spirit of cooperation and interest, and to help in the solution of common problems.

A Resolution

The *Record Stockman* of Denver, Colo., reprinted in its issue of January 12, 1950 a special resolution adopted by the American National Livestock Association at their convention in Miami, Florida. The paper stated its belief that most thinking Americans will agree with the cattlemen, and we believe many of our readers will likewise echo the sentiments expressed in the resolution, which follows:

THERE IMPENDS today a threat to our country and the freedom of its citizens which so menacingly overshadows the future that we, American cattlemen of all

shades of political belief, feel it our duty to speak out in unmistakable terms.

This threat lies in the fact that our country—without conscious choice on the part of its people—is rapidly and unmistakably drifting toward the consummation of a false concept—the socialized state.

Tokens of this danger are everywhere and undeniable. The growing power and expansion of wasteful government; the colossal public debt; the heavy burden of taxation; the malicious attempt to substitute an artificial economy for the natural economy which alone can function in freedom; the gradual assumption by the State of financial responsibility for every hazard incident to life—hazards which should be personally met and borne by every human being who has the instinctive will to survive and the inherent impulse to be free; the arraignment of economic and social groups, one against the other, and numerous other conditions and proposals similarly inspired and equally false.

Government produces nothing and has no means by which to support these false and destructive theories except by exacting from its citizens the fruits of their labors.

The course government is now taking, unless it is promptly reversed, must inevitably lead to national bankruptcy; that, in a vain effort to prolong a specious sense of security, more similar expedients will be applied until we become mere numbers in a completely socialized state.

THEREFORE, BE IT RESOLVED: That we, the members of the American National Live Stock Assn. in convention assembled at Miami, Fla., January 5, 1950, reaffirm our solemn conviction that the future health, strength and prosperity of our country depends on the reestablishment and maintenance of free and competitive enterprise and hereby pledge ourselves as individuals and as an association to diligently and actively work toward this objective and toward the defeat of the fallacious philosophies that are beguiling our country into socialism.

Business History and the Accounting Profession

The March 1950 Bulletin of the Business Historical Society contains an article by Mary E. Murphy of Hunter College entitled "Research in Public Accountancy," which contains the following of special interest to the Lybrand organization:

Of the American accounting partnerships, Lybrand, Ross Bros. & Montgomery has been the most conscious of the necessity of leaving a record of attainment of professional ideals. In *Fifty Years, 1898-1948*, a wide range of topics is considered. Reminiscences of three founders—William M. Lybrand, Robert H. Montgomery and T. Edward Ross—published separately by the firm, succeed, in the writer's opinion, in recounting past events with accuracy and understanding and, need be, with amusement—all essential elements of good biography. Sketches of deceased members of the partnership, too, give more than an inkling of the imprint of these men on the profession; attention is especially directed to the pamphlet dedicated to the memory of Walter A. Staub, Dickinson Lecturer, 1940-41.

Notes

Boston Office

An article by Mr. Herman Stuetzer, Jr., entitled "Upstream Debts in Section 112(b)(6) Liquidations" appeared in the January, 1950 publication of Tax Law Review (New York University). He has been a member of the Faculty of Northeastern University Law School since September, 1949; Lecturer in Corporate and Tax Accounting.

Messrs. Marshal Fabyan, Jr., Robert E. Kenoyer and Daniel E. Chisholm are recent recipients of Massachusetts C. P. A. certificates.

Mr. Raymond D. Balcom has been appointed a member of the Committee on Future School Building Needs for the Town of Needham.

Messrs. Albert E. Hunter, Mark C. Walker, Joseph B. Fyffe and Mrs. Ruth M. Welton are members of the Committee for the Celebration of the Golden Anniversary of Massachusetts Society of Certified Public Accountants, Inc.

Messrs. Robert P. Beach
Edward F. Gibbons
Joseph S. Hayes
Edward F. Hennessy
Roscoe E. Irving
Fred L. Jaquith
Ralph M. Kelmon
Charles R. McCready
James Neely, Jr.
Warren B. Tagen
Richard H. Thorngren
John J. Tolan

completed the C. P. A. examinations with the November, 1949 sitting.

Chicago Office

Messrs. Thomas W. McKibben, A. T. Dent and Marshall M. Rose passed the November, 1949 Illinois C. P. A. examination.

Mr. A. H. Degener is teaching Principles of Accounting at La Salle School of Accounting.

Cincinnati Office

Mr. S. Lester McCormick addressed the luncheon meeting of the Cincinnati Association of Credit Men on Tuesday, February 14, 1950. His subject was "Your Federal Income Tax Return."

Mr. Stanley E. Walker received an Ohio C. P. A. certificate as a result of the November examination.

Cleveland Office

Mr. James P. Colleran has been appointed to serve on the Membership Committee of the Cleveland Chapter, Ohio Society of Certified Public Accountants.

Detroit Office

Mr. Russell was Chairman of a meeting of the Detroit Chapter of N.A.C.A. and the Michigan Association of Certified Public Accountants on February 16, 1950, at which

meeting Mr. T. O. Yntema, Vice President—Finance, of Ford Motor Company, was the main speaker.

The following were successful in passing the C. P. A. examinations given in November, 1949: Messrs. Carl W. Brieske, Chester J. Kree, Glen W. Lewis, Albert Mack, Reuben E. Savala and George G. Valentine.

Louisville Office

Mr. Gaylord C. Hall, Jr. received his C. P. A. certificate after passing the November, 1949 examination.

Mr. Louis S. Sorbo has been appointed Contributing Editor of *The Kentucky Accountant*, a publication of the Kentucky Society of Certified Public Accountants.

New York Office

Mr. A. R. Kassander addressed the Mid-Hudson Chapter of the National Association of Cost Accountants on February 20, 1950, on the subject "Industries to Which Standard Costs Are Applicable and Why."

Philadelphia Office

Mr. Hewitt conducted the session on accounting on January 21st in connection with the Annual Career Conference of the Philadelphia Suburban High Schools at the Drexel Institute of Technology.

Mr. John L. Moneta has been appointed General Chairman for the 1950 Annual Convention of the Pennsylvania Institute of Certified Public Accountants to be held in June at Bedford Springs, Pa.

Mr. Mahon spoke on January 9th before the Williamsport, Pa., Chapter of the National Association of Cost Accountants on "Avoiding Tax Impact by Careful Accounting Treatment." He also participated in the panel discussion on February 9th at the Career Conference at Villanova College, Penna., and took part in radio and television programs on the subject of "Income Taxes" on February 20th and March 7th (WFIL and WFIL-TV) which were sponsored by the Philadelphia Chapters of the Pennsylvania Institute of Certified Public Accountants and National Association of Cost Accountants. On March 9th he spoke before the Kiwanis Club, Allentown, Pa., on "Income Tax Loopholes."

Mr. Frederick Martin has been appointed Chairman of the Campaign Audit Committee of the Cancer Crusade of 1950, which starts April 1st.

Mr. Thomas P. Handwerk has been instructing a class in General Accounting during the 1949-50 season for the Philadelphia Chapter of the American Institute of Banking.

Mr. James E. Meredith, Jr. conducted a course on the "High Lights of Accounting" as part of the Main Line Adult Education Program at Lower Merion High School, Ardmore, Pa.

Mr. Cyril P. Gamber is a member of the Systems Study Committee of the Philadelphia Chapter of the Pennsylvania Institute of Certified Public Accountants. The Fourth Meeting and Dinner of this group was held at the Hotel Sylvania, Philadelphia, on March 27th, the subject "Punchboard Machine Accounting" having been presented by International Business Machines Corporation.

Rockford Office

On March 21, 1950, Mr. John W. Conrad acted as moderator at the regular monthly meeting of the Rockford Chapter of N.A.C.A. The subject for debate was "Should Depreciation Be Based on Cost or Replacement Values?" Three members of the Rockford Chapter presented arguments in favor of replacement value while three members of the Tri-Cities Chapter presented arguments for the cost theory.

Mr. Conrad also talked before the February meeting of the Supervisory Association of J. L. Clark Manufacturing Co. His subject was "Costs and Some Effective Methods of Controlling Them."

Mr. Morris J. McCarthy passed the Illinois examination for Certified Public Accountant last November.

San Francisco Office

Mr. Robert Buchanan was a member of the panel of experts at the February meeting of the San Francisco Chapter, California Society of Certified Public Accountants. The subject for discussion was "Buying or Selling a Business—What Is the Best Way?"

Messrs. Francis Dischler
Martin Gill
Leo C. Linkenheimer
Herbert Warren
Paul Whitesides

have passed the November, 1949 California C. P. A. examinations.

St. Louis Office

Mr. Kermit M. Pennington is instructing a class in Analysis of Financial Statements at the University College of Washington University.

Mr. Anthony J. Piasecki was successful in the November C. P. A. examinations.

The following staff members have been elected members of the American Institute of Accountants:

Arthur Andersen, New York
Walter T. Brown, Philadelphia
Herbert C. Clough, Jr., New York
Robert L. Burton, New York
Alan W. Drew, New York
John J. Eiler, Chicago
Robert C. Hartlieb, New York
Harold G. Hunsberger, Philadelphia
Leonard R. Lazar, Detroit
William H. Leeper, New York
Robert D. Preston, New York
Herman R. Schnell, Philadelphia
Arthur E. Serwich, Chicago
Peter J. Shedden, New York
Thomas J. Snowden, St. Louis
Howard R. Stacks, Jr., Detroit
Ernest Williams, Rockford

Lybrand, Ross Bros. & Montgomery

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DALLAS 1	First National Bank Building
DETROIT 26	Book Building
HOUSTON 2	1114 Texas Avenue
LOS ANGELES 13	510 South Spring Street
LOUISVILLE 2	Heyburn Building
NEW YORK 4	90 Broad Street
PHILADELPHIA 2	Packard Building
PITTSBURGH 22	Oliver Building
ROCKFORD, ILL.	321 West State Street
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SAINT LOUIS 1	411 North Seventh Street
SEATTLE 1	Skinner Building
WASHINGTON 5	Continental Building

EUROPE

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